



## POSTAL SERVICE

### 39 CFR Part 111

#### Nonsubscriber Cap for In-County Periodicals

**AGENCY:** Postal Service™.

**ACTION:** Final rule.

**SUMMARY:** On April 6, 2022, the Postal Service Reform Act of 2022 was signed into law. Section 204 of that Act raised the annual cap on the number of copies that a Periodicals publisher can send to nonsubscribers at In-County rates from 10 percent of the number of copies sent to subscribers at In-County rates to 50 percent. This final rule contains revisions to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®), to implement the change.

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Doriane Harley at (202) 268-2537, Jacqueline Erwin at (202) 268-2158 or Dale Kennedy at (202) 268-6592.

**SUPPLEMENTARY INFORMATION:** Section 204 of the Postal Service Reform Act raised the annual cap on the number of copies that a Periodicals publisher can send to non-subscribers at In-County rates from 10 percent of the number of copies sent to subscribers at In-County rates to 50 percent. Section 204, however, left unchanged the existing 10 percent cap on non-subscriber copies sent at Outside-County rates and on non-subscriber copies sent at Preferred Outside-County rates (e.g., rates for authorized nonprofit, classroom, limited circulation publications, etc.). The Postal Service is amending DMM section 207.7 accordingly.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

#### List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations*. See 39 CFR 111.1.

Accordingly, 39 CFR part 111 is amended as follows:

**PART 111 – [AMENDED.]**

1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 13 U.S.C. 301-307; 18 U.S.C. 1692-1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001-3011, 3201-3219, 3403-3406, 3621, 3622, 3626, 3632, 3633, and 5001.

2. Revise the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

***Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM)**

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**200 Commercial Mail**

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**207 Periodicals**

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**7.0 Mailing to Nonsubscribers or Nonrequesters**

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**7.6 Expired Subscription**

*[Revise the second sentence in 7.6 to read as follows:]*

\*\*\* These copies are not considered subscriber copies for determining eligibility for Periodicals mailing privileges, the base for computing the nonsubscriber limits under 7.9.1 to 7.9.3, or whether an issue is a bona fide issue under 8.0.

## **7.9 Nonrequester and Nonsubscriber Copies**

*[Revise 7.9.1 through 7.9.3 to read as follows:]*

### **7.9.1 Outside County Prices**

For authorized Periodicals subscriber and requester publications, up to 10% of the total number of copies mailed to subscribers or requesters during the calendar year may be mailed to nonsubscribers or nonrequesters at the Outside-County Periodicals prices, provided that those copies would be eligible for Outside-County prices if mailed to subscribers or requesters, and if the copies are presorted under applicable standards. Nonsubscriber or nonrequester copies within the 10% limit do not need to be commingled in a mailing with subscriber or requester copies to be eligible for Outside-County prices. Nonsubscriber or nonrequester copies over the 10% limit are eligible for Outside County prices when commingled and presorted with subscriber or requester copies but otherwise pay appropriate non-Periodicals prices.

### **7.9.2 Preferred Prices**

For Nonprofit, Classroom, Science-of-Agriculture, Limited Circulation, and Limited Circulation Science-of-Agriculture publications, nonsubscriber (for Periodicals except requester publications) or nonrequester (for requester publications) copies up to 10% of the total number of copies mailed to subscribers or requesters during the calendar year may be mailed at the applicable Preferred prices or Preferred price discount, provided that the nonsubscriber or nonrequester copies would qualify as Preferred price or Preferred price discount publications if mailed to subscribers or requesters and if the copies are presorted under applicable standards. Nonsubscriber or nonrequester copies mailed over the 10% limit are not eligible for Preferred prices or the Preferred price discount. To qualify for regular Outside County prices, the nonsubscriber or nonrequester copies over the 10% limit must be part of a presorted, commingled mailing

(one that includes subscriber or requester copies). These copies otherwise pay appropriate non-Periodicals prices.

### **7.9.3 In-County Prices**

Subject to 11.3, nonsubscriber or nonrequester copies may be mailed at In-County prices up to a 50% limit of the total number of subscriber or requester copies of the publication mailed at In-County prices during the calendar year. Once the 50% calendar year limit is exceeded, the nonsubscriber or nonrequester copies may not be mailed at In-County prices.

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*[Revise 7.9.5 to read as follows:]*

### **7.9.5 Mixed Preferred and Regular Outside-County Prices**

Once the total number of nonsubscriber or nonrequester copies mailed during the calendar year exceeds the applicable calendar year limit under 7.9.1 or 7.9.2, further mailings of nonsubscriber or nonrequester copies are not eligible for the relevant Preferred price. Nonsubscriber or nonrequester copies over the 10% allowance under 7.9.1 or 7.9.2 must be part of a presorted commingled mailing (i.e., including subscriber or requester copies) to qualify for Outside-County prices.

\* \* \* \* \*

*[Remove 7.9.6; renumber 7.9.7 and 7.9.8 as 7.9.6 and 7.9.7, respectively; and revise 7.9.6 and 7.9.7 (as renumbered) to read as follows:]*

### **7.9.6 Excess Noncommingled Mailing**

A mailing is not eligible for Periodicals prices if it consists entirely of nonsubscriber or nonrequester copies over the applicable limit under 7.9.1 through 7.9.3. These copies are subject to appropriate non-Periodicals prices.

### **7.9.7 Mixed Mailing**

If all copies in a mailing are to nonsubscribers or nonrequesters and some copies are within the applicable limit under 7.9.1 through 7.9.3 while the rest are over that limit, the excess copies are not eligible for Periodicals prices. The excess copies are subject to appropriate non-Periodicals prices.

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## **11.0 Basic Eligibility**

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## **11.3 In-County Prices**

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### **11.3.2 Exceptional Conditions**

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*[Revise the text of 11.3.2c to read as follows:]*

c. A Periodicals publication having original entry at an incorporated city situated entirely within a county or contiguous to one or more counties in the same state, but politically independent of such county or counties, is considered within a part of the county with which it is principally contiguous. Copies (except commingled nonsubscriber copies above 50% under 7.9.3) mailed into that county are charged at In-County prices. Where more than one county is involved, the publisher selects the principal county and notifies the Postmaster.

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### **11.3.3 Nonsubscriber or Nonrequester Copies**

*[Revise the text of 11.3.3 to read as follows:]*

During a calendar year, the total number of nonsubscriber or nonrequester copies mailed at In-County prices may not exceed 50% of the number of subscriber or requester copies mailed at In-County prices, as under 7.9.3.

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**Sarah E. Sullivan,**

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